

JUN 12 2008

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

LAKESIDE EXCURSIONS LLC;  
JAMES L. NIX,

Plaintiffs - Appellants,

v.

ROBINSON HELICOPTER COMPANY,  
INC.,

Defendant - Appellee.

No. 07-55088

D.C. No. CV-01-08383-GPS

MEMORANDUM \*

Appeal from the United States District Court  
for the Central District of California  
George P. Schiavelli, District Judge, Presiding

Submitted June 9, 2008\*\*  
Pasadena, California

Before: TROTT, THOMAS and FISHER, Circuit Judges.

Plaintiffs James L. Nix and Lakeside Excursions, LLC (“Plaintiffs”) appeal the district court’s dismissal of their diversity action against Robinson Helicopter Company, Inc. We have jurisdiction under 28 U.S.C. § 1291. We affirm.

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\*This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

\*\*The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

The district court did not abuse its discretion in dismissing the case under Federal Rule of Civil Procedure 41(b). *See Henderson v. Duncan*, 779 F.2d 1421, 1423 (9th Cir. 1986). The record reveals that Plaintiffs' counsel repeatedly missed the deadlines set by the district court and the district court gave multiple warnings about dismissing the case. The Plaintiffs also failed to file a formal motion to continue the trial as required by the local rules. In light of these failures, as well as the factors typically considered when determining whether to dismiss a case for lack of prosecution, the district court was well within its discretion in dismissing the case.

We conclude Plaintiffs did not establish a good excuse for the failure to prosecute, thus we do not review the district court's denial of the request for a continuance. *See Ash v. Cvetkov*, 739 F.2d 493, 497-98 (9th Cir. 1984); *see also Al-Torki v. Kaempfen*, 78 F.3d 1381, 1386 (9th Cir. 1996).

**AFFIRMED.**